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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

In re AYANNA M., a Person Coming
Under the Juvenile Court Law.

B221471
(Los Angeles County
Super. Ct. No. CK77640)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES,

Plaintiff and Respondent,

v.

GABRIELLA A.,

Defendant and Appellant.

APPEAL from orders of the Superior Court of Los Angeles County,
Valerie L. Skeba, Juvenile Court Referee. Affirmed.

Konrad S. Lee, under appointment by the Court of Appeal, for Defendant
and Appellant.

Andrea Sheridan Ordin, County Counsel, James M. Owens, Assistant
County Counsel, O. Raquel Ramirez, Deputy County Counsel, for Respondent Los
Angeles County Department of Children and Family Services.

Gabriella A. (“Mother”) the mother of minors Ayanna M., Samantha M., Nicholas M. and Richard M. appeals the juvenile dependency court’s order denying her motion to dismiss the Welfare and Institutions Code¹ section 300 petition based on insufficient evidence supporting the court’s exercise of jurisdiction under section 300, subdivision (b) and the dispositional order pursuant to which the minors were removed from Mother’s custody. For the reasons stated herein, we conclude the juvenile dependency court did not err when it denied the motion to dismiss, and that sufficient evidence supported both the jurisdictional finding and the dispositional order. Accordingly we affirm.

FACTUAL AND PROCEDURAL HISTORY

Prior Child Welfare Involvement with the Family. Mother first came to the attention of the Department of Children and Family Services (the “Department”) in July of 2006. At birth Richard M. tested positive for exposure to methamphetamine and Mother tested positive for methamphetamine and marijuana at the time she delivered Richard M. The allegations of drug use and the risk of harm to Richard M. and his siblings, Ayanna M. (born in January 2000), Samantha M. (born in January 2003), and Nicholas M. (born in May 2005) were substantiated. The family received family maintenance services. Mother completed an outpatient drug treatment program and in May of 2007, the case was closed.

Current Dependency Proceedings.² On February 11, 2009, the Department received a call on the child protection hotline concerning the family. The allegations asserted a claim of general neglect and drug use by Mother. The referral alleged that

¹ All statutory references are to the Welfare and Institutions Code unless otherwise indicated.

² The minors’ father has not lived with the family for several years and has had sporadic contact with his children. Although he is a party in the current dependency proceedings, he is not the subject of this appeal.

Mother was using marijuana and methamphetamine. It further stated that the children did not have a stable home and that Mother was not taking the children to school.

The Department investigated the allegations. Mother admitted her drug use and tested positive for use of methamphetamines and marijuana in February 2009. The Department interviewed the children who denied abuse and neglect; the children stated that they had never witnessed Mother use drugs. Mother stated that she used drugs at night after the children went to bed. The paternal grandmother reported that Mother was a “good parent,” but also opined that Mother’s drug use impaired Mother’s ability to care for the children.

The children’s school indicated that in October 2008, Mother had removed Samantha M. from the school rather than provide proof of the child’s vaccinations. By February 11, 2009, Samantha M. had not attended school for three months and Ayanna M. had also been absent from school without an excuse for more than a week. Ayanna M. reported that sometimes she did not go to school because Mother was too tired in the morning to take her to school.

The Department conducted a risk assessment and found the children were at high risk for abuse based upon mother’s drug abuse history, positive drug test for marijuana and methamphetamine, inability to provide a safe home for the children, and failure to ensure they attended school on a regular basis. On February 17, 2009, the Department held a Team Decision Making (“TDM”) meeting concerning the allegations. As a result, Mother agreed to participate in Voluntary Family Reunification (“VFR”) Services and enter an in-patient drug treatment program, the Tarzana Treatment Center. The VFR contract was scheduled to expire on August 20, 2009. While Mother participated in drug treatment, the children were placed with the paternal grandmother.

In the program, Mother maintained positive contact with the children; she appeared to have bonded with them. Nonetheless, Ayanna M. was angry with Mother because of the situation and was very defiant with her grandmother and acted out in the grandmother’s home. The Department referred Ayanna to the specialized foster care

program through the Department of Mental Health, and she began receiving mental health services.

Mother submitted negative drug tests in the drug treatment program. However, on May 27, 2009, she had been selected to provide support for a new patient, and she and the other patient consumed alcohol while out on a pass. They were tested for substances upon their return to the program, and Mother tested positive for alcohol.

The VFR contract was set to expire on August 20, 2009, and Mother was scheduled to complete the in-patient drug treatment program the next day. Nevertheless, after an assessment by Mother and her counselor, it was decided Mother would benefit from extending her stay in the program until October 1, 2009.

In August 2009, the Department conducted a follow-up risk assessment and concluded Mother had not completed her drug treatment program and was not scheduled for discharge until October 2009. The Department determined the children remained at risk if they were returned to her. Consequently, the Department took the children into protective custody, and detained them with their paternal grandmother.

Detention Proceedings. The Department filed a section 300 petition under subdivision (b), alleging to Mother's three-year history of substance abuse, including her current abuse of marijuana, methamphetamine, and alcohol, her positive toxicology screen for marijuana and methamphetamine on February 11, 2009, and her positive toxicology-screen for alcohol on May 27, 2009. At the detention hearing on August 19, 2009, the juvenile court found, on an emergency basis, a prima facie case for detaining the children. The court also found the Department had made reasonable efforts to prevent the children's removal. Mother's attorney indicated Mother had elected to remain at the Tarzana Treatment Center until October 2009, and requested unmonitored visits for Mother with the children. The juvenile court ordered unmonitored visits for

Mother with the children as long as she continued to comply with the conditions of the VFR contract.³

In a supplemental report prepared in September 2009, the Department disclosed that the paternal grandmother said she did not want Mother to live in her home because this was Mother's second time with drug-related issues. The grandmother stated that when Mother and the children were living with her before, Mother took the children out, came home late, and would not get up the next day to take the children to school. The grandmother reported Mother sometimes left by herself and did not come home for days, and other times she arrived home at 3:00 a.m. in the morning. The grandmother also stated that although mother collected welfare for the children, the grandmother never received any of the money; she stated that Mother sold the food stamps she received.

In mid-September 2009, when interviewed by the social worker Mother acknowledged she had a three-year history of substance abuse; she said she started using drugs after father left her. She also reported that she quit her job as a dental assistant because she was embarrassed about her drug problem. She stated she left the drug treatment program because she felt she did not need the additional time there and she could continue to attend Alcoholics Anonymous/Narcotics Anonymous (AA/NA) meetings outside of the program. However, nearly a month after leaving the program she had yet to get a "sponsor" and had only attended a couple of AA/NA meetings. In addition, she had agreed to submit to random drug testing, but she had not yet been testing. The Department believed Mother was not taking her sobriety seriously, and she remained at high risk for relapse.

Mother had unmonitored visits with the children at the grandmother's home on Saturdays for eight hours. The paternal grandmother indicated the children were happy to see Mother and spend time with her, but they were out of control during the visits.

³ However, notwithstanding the prior assessment that Mother had made with her counselor and her lawyer's representation at the detention hearing on August 19, 2009, less than a week later, Mother decided to leave the drug treatment program rather than stay in treatment until October 2009.

According to the paternal grandmother, Mother did not set limits or discipline the children, and the children did not listen to Mother. The Department noted it made the following additional reasonable efforts to prevent removal of the children from Mother's custody: monthly visitation by the social worker, referrals to community agencies, and initiation of a referral for Family Preservation Services when those services became appropriate.

For a November 2009 pre-trial resolution conference, the Department reported Mother submitted random and negative drug tests on August 31, September 9, September 24, October 1, and October 14, 2009. Mother also continued to visit the children on Saturdays, and the visits went well. Mother said she was attending weekly NA meetings and was actively looking for employment. The juvenile court continued the case to November 23, 2009, for an adjudication/disposition hearing.

Adjudication and Disposition Proceedings. The Department reported for the November 2009 adjudication/disposition hearing that the children could not be placed in the home of the maternal grandmother (where mother also resided) because the home did not have an adequate number of bedrooms. Mother shared a bedroom with her 17-year-old brother. Mother's disabled sister, who required a room to herself, also lived in the home, and the maternal grandmother and her husband had the other bedroom. Furthermore, the step-grandfather had refused to submit to a criminal background check. The Department recommended that Mother secure employment or apply for financial assistance.

The Department further reported that Mother had not requested an increase in her visits with the children. She continued to visit the children on Saturdays, but inexplicably missed two visits on October 24, and November 14, 2009. The Department indicated that Mother continued to submit negative drug tests twice a month. However, Mother had not enrolled in parenting education or individual counseling to address case issues. Mother had not given a reason for her failure to enroll other than to say she was not aware she needed to comply with the case plan. Family Preservation Services could not begin for the family because there were no current openings in the program.

At the hearing jurisdictional/dispositional hearing on November 23, 2009, Mother made a motion pursuant to section 350, subdivision (c), for the court to dismiss the section 300 petition. The Department responded that Mother admitted to a three-year history of substance abuse, using drugs within the past six months, and being sober from drugs for only a couple of months. The children's counsel joined the Department in opposing the motion, arguing the Department had met its burden of proof. Counsel noted that at the time the children were detained, Mother had admitted to relapsing and had agreed to stay at the drug treatment program, but failed to do so. The children's attorney also doubted whether NA meetings were sufficient to address mother's substance abuse issues. Counsel further noted that Mother had failed to ensure the children attended school which was symptomatic of her unresolved drug history which, therefore, placed the children at risk. The children's attorney asked the juvenile court to deny mother's motion, and sustain the section 300 petition as pled.

The juvenile court denied the section 350 motion, but allowed further argument from Mother concerning jurisdiction. Mother asked the juvenile court to dismiss the section 300 petition pursuant to section 350; or, alternatively, order a plan of informal supervision under subdivision (b) of section 360, with random drug testing and AA/NA meetings for Mother; or, alternatively, if the court sustained the petition, to order the children placed home-of-parent.

The juvenile court found true the amended count b-1 of the section 300 petition: "[Mother] has a 3 year history of substance abuse which periodically renders the mother incapable of providing regular care for the children. The children's mother had a positive toxicology screen for marijuana and methamphetamine on 2/11/09. The mother had a positive toxicology screen for alcohol on 5/27/09. Said substance abuse by the children's mother placed the children at risk of harm." The juvenile court found the children to be persons described by, and declared the children dependents of the court pursuant to, subdivision (b) of section 300.

The court stated: "[w]hile I understand that [mother] has completed a program and she's on the road to staying clean, I do believe that jurisdiction is necessary in order to

ensure that the children are not in any danger at this time. . . . Even if the court were to order a [section] 360 [subdivision] (b) [plan], I would have to order, essentially, a home-of-parent-mother order. I'm not ready to do that at this point.”

The court found, by clear and convincing evidence, there was substantial danger to the children’s physical health, safety, protection, or physical or emotional well-being if the children were returned home, and there were no reasonable means by which their physical health could be protected without removing them from mother's physical custody. The court further found the Department made reasonable efforts to prevent and eliminate the need for the children’s removal. The court ordered the care, custody, control, and conduct of the children to be placed under the supervision of the Department for suitable placement in the home of the paternal grandmother. The juvenile court ordered reunification services for mother, including random drug testing, an after program or NA/AA meetings, and individual counseling to address child safety and protection case issues.

Mother asked that she be allowed overnight visits in the maternal grandparents’ home. The court indicated it was uncomfortable with the step-grandfather’s refusal to submit to a criminal background check and, thus, the court would not allow overnight visits to occur in that home. The court authorized Mother to have overnight visits in the home of the paternal grandmother on the condition that the grandmother agreed. The juvenile court further explained that if Mother obtained housing separate from the maternal grandparents by December 23, 2010, the court would consider placing the children with her. However, the court indicated it was unable to place the children with Mother and it wanted some more random drug tests from Mother “to make sure you’re not going to relapse on me if I release the children to you.”⁴

⁴ At the December 23, 2009, continued adjudication/disposition hearing for the children’s father, the Department reported that the paternal grandmother had agreed to allow Mother overnight and day visits in her home, and Mother had begun full-day visits with the children. Mother had agreed to participate in AA/NA meetings or attend an aftercare program, but she had not begun the process.

This timely appeal followed.

DISCUSSION

Before this court Mother argues that the juvenile dependency court erred in denying her section 350 motion to dismiss the petition. She argues that substantial evidence did not support the court's exercise of jurisdiction under section 300, subdivision (b). She further argues that, in any event, the court's dispositional order pursuant to which the children were removed from her custody is infirm. We address these contentions in turn.

I. Jurisdictional Findings

A. Motion to Dismiss Pursuant to Section 350.

Section 350, subdivision (c) provides in pertinent part: "At any hearing in which the probation department bears the burden of proof, after the presentation of evidence on behalf of the probation department and the minor has been closed, the court, on motion of the minor, parent, or guardian, or on its own motion, shall order whatever action the law requires of it if the court, upon weighing all of the evidence then before it, finds that the burden of proof has not been met. That action includes, but is not limited to, the dismissal of the petition and release of the minor at a jurisdictional hearing. . . ." "Section 350(c), the equivalent of a motion for nonsuit, allows a parent to test the sufficiency of the Agency's evidence before presenting his or her case." (*In re Eric H.* (1997) 54 Cal.App.4th 955, 968-969.) In ruling on a nonsuit motion, the court accepts the evidence most favorable to the plaintiff as true and disregards the conflicting evidence. (*Castaneda v. Olsher* (2007) 41 Cal.4th 1205, 1214.)

As we shall explain, the court's denial of Mother's motion under section 350 was supported by substantial evidence.

B. Statutory Requirements for Dependency Jurisdiction

At issue here is the juvenile court's assumption of jurisdiction under section 300, subdivision (b).⁵ To warrant jurisdiction under that subdivision, there must be evidence of "three elements: (1) neglectful conduct by the parent in one of the specified forms; (2) causation; and (3) 'serious physical harm or illness' to the minor, or a 'substantial risk' of such harm or illness." (*In re Rocco M.* (1991) 1 Cal.App.4th 814, 820; accord, *In re David M.* (2005) 134 Cal.App.4th 822, 829 (*David M.*).)

A parent's substance abuse may constitute the requisite neglectful conduct supporting dependency jurisdiction. The statute explicitly permits jurisdiction based on "inability of the parent [] to provide regular care for the child due to the parent's . . . substance abuse." (§ 300, subd. (b).) The dependency statutes also recognize that "a home environment free from the negative effects of substance abuse is a necessary condition for the safety, protection and physical and emotional well-being of the child." (§ 300.2.) As for the element of causation, drug-induced parental neglect might cause harm, particularly for "children of such tender years that the absence of adequate supervision and care poses an inherent risk to their physical health and safety." (*In re Rocco M.*, *supra*, 1 Cal.App.4th at p. 824.) Furthermore, there are various ways in which a parent's substance abuse problem might create a risk that the child will ingest drugs.

⁵ That provision reads in pertinent part as follows: "Any child who comes within any of the following descriptions is within the jurisdiction of the juvenile court which may adjudge that person to be a dependent child of the court: [¶] ... [¶] (b) The child has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness, as a result of the failure or inability of his or her parent or guardian to adequately supervise or protect the child, or the willful or negligent failure of the child's parent or guardian to adequately supervise or protect the child from the conduct of the custodian with whom the child has been left, or by the willful or negligent failure of the parent or guardian to provide the child with adequate food, clothing, shelter, or medical treatment, or by the inability of the parent or guardian to provide regular care for the child due to the parent's or guardian's mental illness, developmental disability, or substance abuse. . . . The child shall continue to be a dependent child pursuant to this subdivision only so long as is necessary to protect the child from risk of suffering serious physical harm or illness." (§ 300, subd. (b).)

(*Id.* at p. 825.) The third element – risk of injury – requires “evidence indicating that the child is exposed to a substantial risk of serious physical harm or illness.” (*Id.* at p. 823.) As noted above, that requirement may be satisfied where a child – particularly a very young child – does not receive adequate supervision and care. (*Id.* at p. 824.)

We review the juvenile court’s jurisdictional findings against the substantial evidence rule. (See, e.g., *David M.*, *supra*, 134 Cal.App.4th at p. 828.) “In juvenile cases, as in other areas of the law, the power of an appellate court asked to assess the sufficiency of the evidence begins and ends with a determination as to whether or not there is any substantial evidence, whether or not contradicted, which will support the conclusion of the trier of fact.” (*In re Katrina C.* (1988) 201 Cal.App.3d 540, 547.) “Under the substantial evidence rule, we have no power to pass on the credibility of witnesses, attempt to resolve conflicts in the evidence or determine where the weight of the evidence lies.” (*In re Diamond H.* (2000) 82 Cal.App.4th 1127, 1135, disapproved on another ground in *Renee J. v. Superior Court* (2001) 26 Cal.4th 735, 748-749, fn. 6.) “Where there is more than one inference which can reasonably be deduced from the facts, the appellate court is without power to substitute its deductions for those of the trier of fact.” (*In re Katrina C.*, *supra*, 210 Cal.App.3d at p. 547.) Applying this deferential standard, we view the evidentiary record in the light most favorable to the order. (*In re Diamond H.*, *supra*, 82 Cal.App.4th at p. 1135.)

Here Mother claims that there was insufficient evidence that her drug dependency caused any actual harm to the children or presented a future risk of harm. She asserts that she entered the in-patient drug treatment program in February 2009 because she had a drug problem not because her drug use had actually harmed the children or caused her to neglect them, and therefore she asserts that her failure to stay in the program until October 2009 did not pose a risk of future harm to the children.

In making this argument she analogizes her situation to that in *David M.* In *David M.*, the appellate court found insufficient evidence to support dependency jurisdiction under section 300, subdivision (b). (*David M.*, *supra*, 134 Cal.App.4th at p. 829.) The court characterized the record before it as lacking “any evidence of a specific, defined

risk of harm to either David or [his sibling] resulting from mother's or father's mental illness, or mother's substance abuse." (*Id.* at p. 830.) The court continued: "Certainly, it is possible to identify many possible harms that could come to pass. But without more evidence than was presented in this case, such harms are merely speculative. [Citation.] [¶] The evidence was uncontradicted that David was healthy, well cared for, and loved, and that mother and father were raising him in a clean, tidy home. Whatever mother's and father's mental problems might be, there was no evidence those problems impacted their ability to provide a decent home for David." (*Ibid.*, see also, e.g., *Jennifer A. v. Superior Court*, *supra*, 117 Cal.App.4th at p. 1327 ["social worker testified Mother did not have a substance abuse problem affecting her parenting skills"].) Nevertheless, the *David M.* court observed: "The juvenile court did identify a valid concern regarding mother's selection of caretakers for David. Mother testified her friend Teresa babysat David three or four times. . . . Mother knew that Teresa used marijuana, but Teresa was not under the influence of marijuana when she babysat David." (*David M.*, *supra*, 134 Cal.App.4th at p. 831.) Moreover, the agency "offered no evidence that David was endangered, much less harmed, while under Teresa's care, or that David was exposed to drugs, drug paraphernalia, or even secondhand marijuana smoke." (*Ibid.*)

The *David M.* case does not assist Mother. In this case, as in *David M.*, there was no evidence that the minors were directly exposed to drugs, or drug paraphernalia. However, in contrast to *David M.*, there was evidence in the record in this case from which the court could reasonably infer that Mother's drug use harmed the children. Mother stated that she used drugs at night after the children went to bed. Nonetheless, Ayanna M. reported that sometimes she did not go to school because Mother was too tired and sleepy in the morning to take her. Moreover prior to the Department's intervention in the family in February 2009, Samantha M. had not attended school for three months and Ayanna M. had also been absent from school without an excuse for more than a week. The court could reasonably infer that the children's absences from school were caused by Mother's late-night drug use. In addition, the oldest child Ayanna M. showed signs of emotional harm directly related to Mother's drug abuse; Mother

admitted that Ayanna M. was angry and acting out as a result. Furthermore, the grandmother reported Mother's drug use impaired Mother's ability to care for the children; Mother would take the children and stay out late at night. The grandmother stated that Mother would sometimes stay out until the early morning hours or not return for days. Mother's drug abuse made her unable to financially provide for her children. Mother conceded that she quit her job as a dental assistant because of her drug use. The grandmother also stated that Mother did not provide any support from the welfare funds she received and that in fact, Mother sold the family's food stamps.

Accordingly, in this case, the court could reasonably find the minors had been actually and substantially harmed by past exposure to Mother's drug lifestyle and its consequences, whether or not the drugs in home were within reach of the children. (Cf., *In re W.O.* (1979) 88 Cal.App.3d 906, 910 [there was "a 'remote possibility' that the children may be endangered by their present environment" where drugs were in reach, "but remote possibilities do not provide grounds sufficient for removing a child from parental custody"].) "Child abuse takes many forms. Exposing children to a life of drug use is one of those forms of child abuse." (*Id.* at p. 912 (dis. opn. of Scott, J.).)

The question then becomes whether the risk of harm was likely to continue. "[T]he purpose of section 300, subdivision (b) is to protect the child from a substantial risk of future serious physical harm and that risk is determined as of the time of the jurisdictional hearing." (*In re Savannah M.* (2005) 131 Cal.App.4th 1387, 1397.) Jurisdiction thus may be unwarranted where the facts alleged in the petition represent an isolated instance of past parental neglect. Thus, for example, jurisdiction could not be based on a single incident of sexual abuse by an acquaintance in whose care the children were placed, where the evidence showed that he would never be trusted with them again. (*Id.* at p. 1398.) Likewise, jurisdiction was not warranted where the child was placed with a babysitter known to use marijuana, where the only evidence was that he would never be placed in her care again. (*In re David M., supra*, 134 Cal.App.4th at p. 831.) To support jurisdiction, there must be evidence that the child "will suffer, in the future, serious physical harm as a result of her parents' negligent failure to protect her from the

conduct of a custodian or caretaker. (§ 300, subd. (b).)” (*In re Savannah M.*, *supra*, 131 Cal.App.4th at p. 1398.)

In this case, the juvenile court was warranted in finding a likelihood of future harm. Because the evidence supported a finding that Mother’s drug use had harmed the children in the past, Mother’s efforts to address her drug problem and rehabilitate herself, are clearly material to the issue of future risk. Here, Mother had not fully completed the in-patient drug treatment program. While she finished the six-month program as originally anticipated in the VFR contract, after Mother’s “relapse” in the program in May 2009, Mother and her counselor reassessed her situation and agreed that Mother would benefit by extending her in-patient treatment until October 2009. However, Mother left the program in late August 2009 after she decided that she would not benefit from the extended care and that she could participate in sobriety programs on her own. The Department presented evidence, however, that between late August 2009 and the November 2009 jurisdictional hearing Mother had not regularly attended NA/AA meetings in the fall of 2009, and had not arranged for a sponsor. Given Mother’s history of drug use, her ultimately unsuccessful efforts to address her drug problem in 2006 in out-patient treatment, the Department had reason to doubt Mother’s commitment to sobriety at the time of the jurisdictional hearing. The record also reflected that Mother had not participated in other aspects of the case plan, including participating in the recommended parenting education and individual counseling. Taken as a whole this evidence supports an inference that the minors remained at risk of being placed in the same harmful environment in the future. (Cf., *David M.*, *supra*, 134 Cal.App.4th at p. 831 [no “substantial evidence of any risk of future harm” where the “only testimony on the topic was that Teresa would not be babysitting David again”].)

In sum, on this record we conclude the juvenile court properly denied the section 350 motion to dismiss. Sufficient evidence supports the court’s exercise of dependency jurisdiction.

II. Dispositional Order

On appeal, Mother argues that even if the court did not err in making jurisdictional findings, the evidence before the dependency court was insufficient to support the juvenile court's dispositional order removing the minors from her custody.

To support an order removing a child from parental custody, the juvenile court must find clear and convincing evidence that “[t]here is or would be a substantial danger to the physical health, safety, protection, or physical or emotional well-being of the minor if the minor were returned home, and there are no reasonable means by which the minor’s physical health can be protected without removing the minor from the minor’s parent’s or guardian’s physical custody.” (§ 361, subd. (c)(1); see *In re Heather A.* (1996) 52 Cal.App.4th 183, 193.) The court also must “make a determination as to whether reasonable efforts were made to prevent or to eliminate the need for removal of the minor” and “state the facts on which the decision to remove the minor is based.” (§ 361, subd. (d).)

Removal findings are reviewed under the substantial evidence test set forth above (*In re Heather A.*, *supra*, 52 Cal.App.4th at p. 193), and evidence of past conduct may be probative of current conditions, particularly where there is reason to believe the conduct will continue in the future. (*In re Rocco M.*, *supra*, 1 Cal.App.4th at p. 824.)

At the time of the hearing in November 2009, Mother’s sobriety was relatively recent. She had just begun participating in random drug testing, and NA/AA meetings, but had not yet obtained a “sponsor.” Although she had been looking for work she had not gotten a job. She had not participated in individual counseling or parenting classes. As discussed elsewhere, we conclude that given Mother’s history of drug abuse, her relapse after outpatient treatment in 2006, her minor relapse while in treatment in May 2009, her failure to complete the additional agreed-to in-patient treatment and her rather halfhearted efforts to participate in NA/AA after her release from treatment, the court did not err in finding that the minors would be a substantial danger to the physical health, safety, protection, or physical or emotional well-being of the minors if they were returned home.

Mother also argues, however, the juvenile court failed to consider less drastic measures than removal. But the record reflects, and the court found, the Department had made reasonable efforts to eliminate the need for removal of the minors from parental custody. The Department had investigated placing the children with the Mother, but the Mother's lack of employment and financial resources coupled with a lack of adequate housing to accommodate her four young children, made it impossible to return the children to her custody at that time. Moreover, the minors are still quite young, requiring constant and consistent parental supervision.

Though the evidence is not overwhelming, it is sufficient. The evidence before the juvenile court supported the dispositional order of removal. In sum, no reasonable means short of removal of the minors would be adequate to protect the minors' well being, given the risk of harm.

DISPOSITION

The orders of the juvenile dependency court are affirmed.

WOODS, J.

We concur:

PERLUSS, P. J.

JACKSON, J.